IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 2377 of 2004

For Approval and Signature:

HON'BLE MR.JUSTICE P.B.MAJMUDAR

==========

1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

MANJULABEN ALIAS MANJU MANUSINH MOHANSINH RAJPUT

Versus

COMMISSIONER OF POLICE

Appearance:

1. Special Civil Application No. 2377 of 2004

MS DR KACHHAVAH for Petitioner No. 1

MR KAMLESH KACHHAVAH for Petitioner No. 1

MR AY KOGJE, AGP for Respondent No. 1-3

RULE SERVED for Respondent No. 1-2

CORAM : HON'BLE MR.JUSTICE P.B.MAJMUDAR

Date of decision: 12/07/2004

ORAL JUDGEMENT

By filing this petition, the petitioner-detenue

has challenged her detention order dated 29-12-2003. By the said order, the petitioner is detained as a "bootlegger" under P.A.S.A. Along with the order of detention, petitioner is also served with the grounds of detention. In the grounds of detention, there is a reference about five criminal cases pending against the petitioner. All these cases are registered under Bombay Prohibition Act. After considering the aforesaid cases as well as statement of two witnesses, the detaining authority has passed order of detention against the petitioner, which is impugned in this petition.

2) Learned advocate for the petitioner has argued number of points but he has mainly submitted that the petitioner made a representation to the Home Department, State of Gujarat, against the aforesaid order of detention. The said representation was sent by Regd.Post A.D. on 17th February, 2004, while the same was decided on 23rd February, 2004, therefore, there is a delay in deciding such representation. He submitted that the State has not explained this delay in deciding representation and, therefore, the order of detention is required to be quashed and set aside, as according to him, such representation is required to be disposed of forthwith.

3) Mr.Kogje, learned AGP submitted that the representation of the petitioner was received by the department on 19th February, 2004 and the same was decided on 23rd February, 2004. He further submitted that as it was Sunday on 22nd February, 2004, there is delay of two days in deciding the representation of the petitioner. However, for such delay no explanation is given by the State by filing reply, even though the point of delay in deciding representation is taken in ground No.9 in the petition. The detaining authority has filed its reply but, naturally, the detaining authority is not in a position to explain this delay. Therefore, on this limited ground of delay in deciding representation of the petitioner, this petition is required to be allowed and it is allowed.

4) For the foregoing reasons this petition is allowed. The order of detention dated 29-12-2003 is quashed and set aside. The detenue, Smt.Manjulaben alias Manju Manusinh Mohansinh Rajput is ordered to be set at liberty forthwith, if she is not required in connection with any other case. Rule is made absolute.

(P.B.Majmudar,J.)

/malek